



DOCKET NO. 1818.1022-001

**TERMINAL DISCLAIMER TO OBLIVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

In re Application of: Jonathan S. Stamler

Application No.: 08/874,992

Filed: June 12, 1997

Confirmation No.: 3513

For: NO-Modified Hemoglobins and Uses Therefor

The owner, Duke University, of one hundred percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term (defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/638,969, filed on August 11, 2003) of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent, expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.

The undersigned is empowered to act on behalf of the owner.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

10-19-04

Date

Signature

Robert L. Taber, Ph.D.

Typed or printed name

Duke University

Name of Corporation

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DOCKET NO. 1818.1022-001**TERMINAL DISCLAIMER TO OBLVIA TE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

In re Application of: Jonathan S. Stamler  
Application No.: 08/874,992  
Filed: June 12, 1997  
Confirmation No.: 3513  
For: NO-Modified Hemoglobins and Uses Therefor

The owner, Duke University, of one hundred percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,627,738. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The terminal disclaimer fee under 37 CFR 1.20(d) is enclosed.

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10-19-04

Date

Signature

Robert L. Taber, Ph.D.

Typed or printed name

Duke University

Name of Corporation

Docket No. 1818.1022-001STATEMENT UNDER 37 C.F.R. § 3.73(b)Inventor: Jonathan S. StamlerApplication No./Patent No.: 08/874,992Filed/Issue Date: June 12, 1997For: NO-Modified Hemoglobins and Uses ThereforDuke University

(Name of Assignee)

University

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is

A.  the assignee of the entire right, title and interest in the patent application identified above; or  
B.  an assignee together with [ ] of the entire right, title and interest in the patent application identified above.

The right, title and interest of the above-named assignee in the patent application identified above is established by virtue of:

A.  An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 010967, Frame 0919-0927, or a copy thereof is attached.

OR

B.  A chain of title from the inventor(s) of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or a copy thereof is attached.

Additional documents in the chain of title are listed on a supplemental sheet.

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Date: 10-19-04Name: Robert L. Taber, Ph.D.Title: Vice ChancellorSignature: RLT